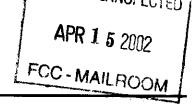
Federal Communications Commission 445 12th St., S.W. Washington, D.C. 20554



DA 02-758

Released: April 4, 2002

NOTICE OF PROHIBITED PRESENTATION
IN THE MATTER OF
REVISION OF PART 15 OF THE COMMISSION'S RULES
REGARDING ULTRA-WIDEBAND TRANSMISSION SYSTEM
(ET Docket No. 98-153)

Notice is hereby given that a prohibited presentation concerning the above-referenced proceeding (CS Docket No. 98-153) has been received by the Commission. Section 1.1203 of the Commission's Rules, 47 C.F.R. § 1.1203, prohibits the making of any presentation, whether ex parte or not, to decision-making personnel concerning any matter listed on the Commission's Sunshine Agenda until the Commission releases the text of a decision or order relating to that matter. The instant presentation addressed the merits of CS Docket No. 98-153, which was included in the Commission's Sunshine Agenda by Public Notice dated February 7, 2002. Accordingly, under Section 1.1212 of the Commission's Rules, 47 C.F.R. § 1.1212, this presentation shall be associated with, but not made a part of, the record in CS Docket No. 98-153.

The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's copy contractor, Qualex International, telephone 202-863-2893, facsimile 202-863-2898, TTY 202-863-2897. Qualex International may be reached by e-mail at Qualexint@apl.com. This document may also be viewed on the Commission's Home Page (HYPERLINK https://haifoss.fcc.gov/cgi-bin/ws.exe/prod/ecfs/comsrch_v2.hts).

Action by John I. Riffer, Assistant General Counsel, Administrative Law Division

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03-04-02 05:33PM

Subsurface



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Concerning

Revision of Federal Communications

Commission Part 15 Rules regarding

Ultra-widehand (UWB) Transmission Systems.]

DOCKET 98-153

Hon. Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Mr. Powell:

This letter relates to a proposed revision of Part 15 of FCC regulations concerning radiation emitted by a variety of devices. If implemented, these regulations will have the unintended consequences of shutting down a small but vital, innovative, and productive part of the American economy.

The newer technologies are referred to as ultra-wideband (UWB) because they generate a broad spectrum of radiation in a pulse of energy. This is exactly what ground-penetrating radar (GPR) does, and the technology has been in commercial use for about 30 years.

My firm (Subsurface Consulting, Ltd.) carries out ground-penetrating radar (GPR) surveys, and has been in existence since 1987. We are incorporated in New York State, with offices in Connecticut. GPR is an electromagnetic interrogation device that works like a fish finder. A transmitter sends out a broad-bandwidth pulse into the ground and as the pulse propagates through the medium, it encounters electrical differences, which in turn are reflected back to a receiver. The data are then viewed on a screen, or printed out. An experienced operator then interprets these signals, and can produce an accurate map or profile of subsurface conditions.

GPR applications are almost unlimited, and range from utility location and mapping, finding buried land mines and unexploded ordnance, to the location of human remains. Most of my applications have been in the realm of utility markout and mapping, and the assessment of concrete structures.

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There are probably only 1000 or so GPR practitioners in the country. Most operate in small firms that employ 1-6 people, with gross incomes in the range of \$100k to \$500k per annum. Use of geophysical techniques, such as GPR increases productivity in the US by reducing plant shutdowns and worker injury resulting from construction "surprises" such as striking unmapped utilities, like electric conduits and gas lines. Although our financial "take" is not great, we save clients tens to hundreds of millions of dollars in construction costs by reducing or eliminating damage from unintended utility "hits" and the reduction or prevention of workplace injuries related to those "hits."

This new rule puts me (and my colleagues) out of business, because it will become illegal for me to turn on my equipment. The PCC draft rule says we cannot even use the spectrum from 960 MHz to 3.1 GHz. If applied, that eliminates the 2 antennas I use for analysis and non-destructive testing (NDT) of concrete structures.

Because we are small firms, we do not have the Euron-like clout to be able to reach legislators and employees of the FCC with our concerns. Of the 914 comments and responses to these proposed regulations, 90% are from law firms or lobbyists with ties to large telecommunications firms.

I am a firm believer in the free market, but when an agency of the federal government defines a market out of existence by executive fiat, it is supporting monopoly power, not a free market. Implementation of this new rule will constitute an unfair restraint of trade, and flies in the face of President Bush's recent supportive remarks concerning small businesses in the US, and their positive impact on employment and productivity.

There are allegations and tests that purport to show that GPR transmissions interfere with global positioning systems (GPS). That is an absolutely fraudulent claim; GPR manufacturers produce units that have a GPS system directly attached and they operate within a foot of one another without interference. As regards interference, my GPR equipment is adversely affected by 900 MHz cell phones, and emissions from nearby personal computers.

I close with the following specific requests and recommendations:

- 1) That the promulgation of the proposed new FCC Part 15 rules be postponed for 6 months.
- 2) That the comment period on the new rules be reopened and extended.

3) That public hearings be held on the impact of these new rules.

Cordially,

James S. Mellett, PhD President